

**William Wilberforce Trafficking Victims Protection  
Reauthorization Act of 2008**

[Public Law 110–457]

[As Amended Through P.L. 117–347, Enacted January 5, 2023]

【Currency: This publication is a compilation of the text of Public Law 110–457. It was last amended by the public law listed in the As Amended Through note above and below at the bottom of each page of the pdf version and reflects current law through the date of the enactment of the public law listed at <https://www.govinfo.gov/app/collection/comps/>】

【Note: While this publication does not represent an official version of any Federal statute, substantial efforts have been made to ensure the accuracy of its contents. The official version of Federal law is found in the United States Statutes at Large and in the United States Code. The legal effect to be given to the Statutes at Large and the United States Code is established by statute (1 U.S.C. 112, 204).】

AN ACT To authorize appropriations for fiscal years 2008 through 2011 for the Trafficking Victims Protection Act of 2000, to enhance measures to combat trafficking in persons, and for other purposes.

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**TITLE II—COMBATING TRAFFICKING IN  
PERSONS IN THE UNITED STATES**

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**Subtitle A—Ensuring Availability of  
Possible Witnesses and Informants**

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**SEC. 203. [8 U.S.C. 1375c] PROTECTIONS, REMEDIES, AND LIMITATIONS  
ON ISSUANCE FOR A-3 AND G-5 VISAS.**

(a) LIMITATIONS ON ISSUANCE OF A-3 AND G-5 VISAS.—

(1) CONTRACT REQUIREMENT.—Notwithstanding any other provision of law, the Secretary of State may not issue—

(A) an A-3 visa unless the applicant is employed, or has signed a contract to be employed containing the requirements set forth in subsection (d)(2), by an officer of a diplomatic mission or consular post; or

(B) a G-5 visa unless the applicant is employed, or has signed a contract to be employed by an employee in an international organization.

(2) SUSPENSION REQUIREMENT.—Notwithstanding any other provision of law, the Secretary shall suspend, for a period

of at least 1 year, except if the Secretary determines and reports to the appropriate congressional committees, in advance, the reasons a shorter period is in the national interest,,<sup>1</sup> the issuance of A-3 visas or G-5 visas to applicants seeking to work for officials of a diplomatic mission or an international organization, if there is an unpaid default or final civil judgement directly or indirectly related to human trafficking against the employer or a family member assigned to the embassy, or the diplomatic mission or international organization hosting the employer or family member has not responded affirmatively to a request to waive immunity within 6 weeks of the request in a case brought by the United States Government and the country that accredited the employer or family member or, in the case of international organizations, the country of citizenship, has not initiated prosecution against the employer or family member.

(3) ACTION BY DIPLOMATIC MISSIONS OR INTERNATIONAL ORGANIZATIONS.—The Secretary may suspend the application of the limitation under paragraph (2) if the Secretary determines and reports to the appropriate congressional committees that, as applicable, the unpaid default judgment or final civil judgment has been resolved, the diplomatic mission or international organization hosting the employer or family member has waived immunity for the employer or family member or the country that accredited the employer or family member or the country of citizenship of the employer or family member completed the prosecution of the employer or family member, and the diplomatic mission or international organization hosting the employer or family member has a mechanism in place to ensure that such abuse or exploitation does not reoccur with respect to any alien employed by an employee of such mission or institution.

(b) PROTECTIONS AND REMEDIES FOR A-3 AND G-5 NON-IMMIGRANTS EMPLOYED BY DIPLOMATS AND STAFF OF INTERNATIONAL ORGANIZATIONS.—

(1) IN GENERAL.—The Secretary may not issue or renew an A-3 visa or a G-5 visa unless—

(A) the visa applicant has executed a contract with the employer or prospective employer containing provisions described in paragraph (2); and

(B) a consular officer has conducted a personal interview with the applicant outside the presence of the employer or any recruitment agent in which the officer reviewed the terms of the contract and the provisions of the pamphlet required under section 202.

(2) MANDATORY CONTRACT.—The contract between the employer and domestic worker required under paragraph (1) shall include—

(A) an agreement by the employer to abide by all Federal, State, and local laws in the United States;

<sup>1</sup> Double commas in paragraph (2) is so in law.

(B) information on the frequency and form of payment, work duties, weekly work hours, holidays, sick days, and vacation days; and

(C) an agreement by the employer not to withhold the passport, employment contract, or other personal property of the employee.

(3) TRAINING OF CONSULAR OFFICERS.—The Secretary shall provide appropriate training to consular officers on the fair labor standards described in the pamphlet required under section 202, trafficking in persons, and the provisions of this section.

(4) RECORD KEEPING.—

(A) IN GENERAL.—The Secretary shall maintain records on the presence of nonimmigrants holding an A-3 visa or a G-5 visa in the United States, including—

(i) information about when the nonimmigrant entered and permanently exited the country of residence;

(ii) the official title, contact information, and immunity level of the employer; and

(iii) information regarding any allegations of employer abuse received by the Department of State.

(c) PROTECTION FROM REMOVAL DURING LEGAL ACTIONS AGAINST FORMER EMPLOYERS.—

(1) REMAINING IN THE UNITED STATES TO SEEK LEGAL REDRESS.—

(A) EFFECT OF COMPLAINT FILING.—Except as provided in subparagraph (B), if a nonimmigrant holding an A-3 visa or a G-5 visa working in the United States files a civil action under section 1595 of title 18, United States Code, or a civil action regarding a violation of any of the terms contained in the contract or violation of any other Federal, State, or local law in the United States governing the terms and conditions of employment of the nonimmigrant that are associated with acts covered by such section, the Attorney General and the Secretary of Homeland Security shall permit the nonimmigrant to remain legally in the United States for time sufficient to fully and effectively participate in all legal proceedings related to such action.

(B) EXCEPTION.—An alien described in subparagraph (A) may be deported before the conclusion of the legal proceedings related to a civil action described in such subparagraph if such alien is—

(i) inadmissible under paragraph (2)(A)(i)(II), (2)(B), (2)(C), (2)(E), (2)(H), (2)(I), (3)(A)(i), (3)(A)(iii), (3)(B), (3)(C), or (3)(F) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)); or

(ii) deportable under paragraph (2)(A)(ii), (2)(A)(iii), (4)(A)(i), (4)(A)(iii), (4)(B), or (4)(C) of section 237(a) of such Act (8 U.S.C. 1227(a)).

(C) FAILURE TO EXERCISE DUE DILIGENCE.—If the Secretary of Homeland Security, after consultation with the Attorney General, determines that the nonimmigrant holding an A-3 visa or a G-5 visa has failed to exercise due diligence in pursuing an action described in subparagraph (A),

the Secretary may terminate the status of the A-3 or G-5 nonimmigrant.

(2) AUTHORIZATION TO WORK.—The Attorney General and the Secretary of Homeland Security shall authorize any nonimmigrant described in paragraph (1) to engage in employment in the United States during the period the nonimmigrant is in the United States pursuant to paragraph (1).

(d) STUDY AND REPORT.—

(1) INVESTIGATION REPORT.—

(A) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, and every 2 years thereafter for the following 10 years, the Secretary shall submit a report to the appropriate congressional committees on the implementation of this section.

(B) CONTENTS.—The report submitted under subparagraph (A) shall include—

- (i) an assessment of the actions taken by the Department of State and the Department of Justice to investigate allegations of trafficking or abuse of nonimmigrants holding an A-3 visa or a G-5 visa; and
- (ii) the results of such investigations.

(2) FEASIBILITY OF OVERSIGHT OF EMPLOYEES OF DIPLOMATS AND REPRESENTATIVES OF OTHER INSTITUTIONS REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit a report to the appropriate congressional committees on the feasibility of—

(A) establishing a system to monitor the treatment of nonimmigrants holding an A-3 visa or a G-5 visa who have been admitted to the United States;

(B) a range of compensation approaches, such as a bond program, compensation fund, or insurance scheme, to ensure that such nonimmigrants receive appropriate compensation if their employers violate the terms of their employment contracts; and

(C) with respect to each proposed compensation approach described in subparagraph (B), an evaluation and proposal describing the proposed processes for—

- (i) adjudicating claims of rights violations;
- (ii) determining the level of compensation; and
- (iii) administering the program, fund, or scheme.

(e) ASSISTANCE TO LAW ENFORCEMENT INVESTIGATIONS.—The Secretary shall cooperate, to the fullest extent possible consistent with the United States obligations under the Vienna Convention on Diplomatic Relations, done at Vienna, April 18, 1961, (23 U.S.T. 3229), with any investigation by United States law enforcement authorities of crimes related to abuse or exploitation of a nonimmigrant holding an A-3 visa or a G-5 visa.

(f) DEFINITIONS.—In this section:

(1) A-3 VISA.—The term “A-3 visa” means a nonimmigrant visa issued pursuant to section 101(a)(15)(A)(iii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(A)(iii)).

(2) G-5 VISA.—The term “G-5 visa” means a nonimmigrant visa issued pursuant to section 101(a)(15)(G)(v) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(G)(v)).

(3) SECRETARY.—The term “Secretary” means the Secretary of State.

(4) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means—

(A) the Committee on Foreign Affairs and the Committee on the Judiciary of the House of Representatives; and

(B) the Committee on Foreign Relations and the Committee on the Judiciary of the Senate.

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## Subtitle D—Activities of the United States Government

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### SEC. 235. [8 U.S.C. 1232] ENHANCING EFFORTS TO COMBAT THE TRAFFICKING OF CHILDREN.

(a) COMBATING CHILD TRAFFICKING AT THE BORDER AND PORTS OF ENTRY OF THE UNITED STATES.—

(1) POLICIES AND PROCEDURES.—In order to enhance the efforts of the United States to prevent trafficking in persons, the Secretary of Homeland Security, in conjunction with the Secretary of State, the Attorney General, and the Secretary of Health and Human Services, shall develop policies and procedures to ensure that unaccompanied alien children in the United States are safely repatriated to their country of nationality or of last habitual residence.

(2) SPECIAL RULES FOR CHILDREN FROM CONTIGUOUS COUNTRIES.—

(A) DETERMINATIONS.—Any unaccompanied alien child who is a national or habitual resident of a country that is contiguous with the United States shall be treated in accordance with subparagraph (B), if the Secretary of Homeland Security determines, on a case-by-case basis, that—

(i) such child has not been a victim of a severe form of trafficking in persons, and there is no credible evidence that such child is at risk of being trafficked upon return to the child’s country of nationality or of last habitual residence;

(ii) such child does not have a fear of returning to the child’s country of nationality or of last habitual residence owing to a credible fear of persecution; and

(iii) the child is able to make an independent decision to withdraw the child’s application for admission to the United States.

(B) RETURN.—An immigration officer who finds an unaccompanied alien child described in subparagraph (A) at a land border or port of entry of the United States and determines that such child is inadmissible under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) may—

(i) permit such child to withdraw the child’s application for admission pursuant to section 235(a)(4) of

the Immigration and Nationality Act (8 U.S.C. 1225(a)(4)); and

(ii) return such child to the child's country of nationality or country of last habitual residence.

(C) CONTIGUOUS COUNTRY AGREEMENTS.—The Secretary of State shall negotiate agreements between the United States and countries contiguous to the United States with respect to the repatriation of children. Such agreements shall be designed to protect children from severe forms of trafficking in persons, and shall, at a minimum, provide that—

(i) no child shall be returned to the child's country of nationality or of last habitual residence unless returned to appropriate employees or officials, including child welfare officials where available, of the accepting country's government;

(ii) no child shall be returned to the child's country of nationality or of last habitual residence outside of reasonable business hours; and

(iii) border personnel of the countries that are parties to such agreements are trained in the terms of such agreements.

(3) RULE FOR OTHER CHILDREN.—The custody of unaccompanied alien children not described in paragraph (2)(A) who are apprehended at the border of the United States or at a United States port of entry shall be treated in accordance with subsection (b).

(4) SCREENING.—Within 48 hours of the apprehension of a child who is believed to be described in paragraph (2)(A), but in any event prior to returning such child to the child's country of nationality or of last habitual residence, the child shall be screened to determine whether the child meets the criteria listed in paragraph (2)(A). If the child does not meet such criteria, or if no determination can be made within 48 hours of apprehension, the child shall immediately be transferred to the Secretary of Health and Human Services and treated in accordance with subsection (b). Nothing in this paragraph may be construed to preclude an earlier transfer of the child.

(5) ENSURING THE SAFE REPATRIATION OF CHILDREN.—

(A) REPATRIATION PILOT PROGRAM.—To protect children from trafficking and exploitation, the Secretary of State shall create a pilot program, in conjunction with the Secretary of Health and Human Services and the Secretary of Homeland Security, nongovernmental organizations, and other national and international agencies and experts, to develop and implement best practices to ensure the safe and sustainable repatriation and reintegration of unaccompanied alien children into their country of nationality or of last habitual residence, including placement with their families, legal guardians, or other sponsoring agencies.

(B) ASSESSMENT OF COUNTRY CONDITIONS.—The Secretary of Homeland Security shall consult the Department of State's Country Reports on Human Rights Practices and

the Trafficking in Persons Report in assessing whether to repatriate an unaccompanied alien child to a particular country.

(C) REPORT ON REPATRIATION OF UNACCOMPANIED ALIEN CHILDREN.—Not later than 18 months after the date of the enactment of this Act, and annually thereafter, the Secretary of State and the Secretary of Health and Human Services, with assistance from the Secretary of Homeland Security, shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives on efforts to improve repatriation programs for unaccompanied alien children. Such report shall include—

(i) the number of unaccompanied alien children ordered removed and the number of such children actually removed from the United States;

(ii) a statement of the nationalities, ages, and gender of such children;

(iii) a description of the policies and procedures used to effect the removal of such children from the United States and the steps taken to ensure that such children were safely and humanely repatriated to their country of nationality or of last habitual residence, including a description of the repatriation pilot program created pursuant to subparagraph (A);

(iv) a description of the type of immigration relief sought and denied to such children;

(v) any information gathered in assessments of country and local conditions pursuant to paragraph (2); and

(vi) statistical information and other data on unaccompanied alien children as provided for in section 462(b)(1)(J) of the Homeland Security Act of 2002 (6 U.S.C. 279(b)(1)(J)).

(D) PLACEMENT IN REMOVAL PROCEEDINGS.—Any unaccompanied alien child sought to be removed by the Department of Homeland Security, except for an unaccompanied alien child from a contiguous country subject to exceptions under subsection (a)(2), shall be—

(i) placed in removal proceedings under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a);

(ii) eligible for relief under section 240B of such Act (8 U.S.C. 1229c) at no cost to the child; and

(iii) provided access to counsel in accordance with subsection (c)(5).

(b) COMBATING CHILD TRAFFICKING AND EXPLOITATION IN THE UNITED STATES.—

(1) CARE AND CUSTODY OF UNACCOMPANIED ALIEN CHILDREN.—Consistent with section 462 of the Homeland Security Act of 2002 (6 U.S.C. 279), and except as otherwise provided under subsection (a), the care and custody of all unaccompanied alien children, including responsibility for their deten-

tion, where appropriate, shall be the responsibility of the Secretary of Health and Human Services.

(2) NOTIFICATION.—Each department or agency of the Federal Government shall notify the Department of Health and Human Services within 48 hours upon—

(A) the apprehension or discovery of an unaccompanied alien child; or

(B) any claim or suspicion that an alien in the custody of such department or agency is under 18 years of age.

(3) TRANSFERS OF UNACCOMPANIED ALIEN CHILDREN.—Except in the case of exceptional circumstances, any department or agency of the Federal Government that has an unaccompanied alien child in custody shall transfer the custody of such child to the Secretary of Health and Human Services not later than 72 hours after determining that such child is an unaccompanied alien child.

(4) AGE DETERMINATIONS.—The Secretary of Health and Human Services, in consultation with the Secretary of Homeland Security, shall develop procedures to make a prompt determination of the age of an alien, which shall be used by the Secretary of Homeland Security and the Secretary of Health and Human Services for children in their respective custody. At a minimum, these procedures shall take into account multiple forms of evidence, including the non-exclusive use of radiographs, to determine the age of the unaccompanied alien.

(c) PROVIDING SAFE AND SECURE PLACEMENTS FOR CHILDREN.—

(1) POLICIES AND PROGRAMS.—The Secretary of Health and Human Services, Secretary of Homeland Security, Attorney General, and Secretary of State shall establish policies and programs to ensure that unaccompanied alien children in the United States are protected from traffickers and other persons seeking to victimize or otherwise engage such children in criminal, harmful, or exploitative activity, including policies and programs reflecting best practices in witness security programs.

(2) SAFE AND SECURE PLACEMENTS.—

(A) MINORS IN DEPARTMENT OF HEALTH AND HUMAN SERVICES CUSTODY.—Subject to section 462(b)(2) of the Homeland Security Act of 2002 (6 U.S.C. 279(b)(2)), an unaccompanied alien child in the custody of the Secretary of Health and Human Services shall be promptly placed in the least restrictive setting that is in the best interest of the child. In making such placements, the Secretary may consider danger to self, danger to the community, and risk of flight. Placement of child trafficking victims may include placement in an Unaccompanied Refugee Minor program, pursuant to section 412(d) of the Immigration and Nationality Act (8 U.S.C. 1522(d)), if a suitable family member is not available to provide care. A child shall not be placed in a secure facility absent a determination that the child poses a danger to self or others or has been charged with having committed a criminal offense. The placement of a child in a secure facility shall be reviewed, at a minimum,



on a monthly basis, in accordance with procedures prescribed by the Secretary, to determine if such placement remains warranted.

(B) ALIENS TRANSFERRED FROM DEPARTMENT OF HEALTH AND HUMAN SERVICES TO DEPARTMENT OF HOMELAND SECURITY CUSTODY.—If a minor described in subparagraph (A) reaches 18 years of age and is transferred to the custody of the Secretary of Homeland Security, the Secretary shall consider placement in the least restrictive setting available after taking into account the alien's danger to self, danger to the community, and risk of flight. Such aliens shall be eligible to participate in alternative to detention programs, utilizing a continuum of alternatives based on the alien's need for supervision, which may include placement of the alien with an individual or an organizational sponsor, or in a supervised group home.

(3) SAFETY AND SUITABILITY ASSESSMENTS.—

(A) IN GENERAL.—Subject to the requirements of subparagraph (B), an unaccompanied alien child may not be placed with a person or entity unless the Secretary of Health and Human Services makes a determination that the proposed custodian is capable of providing for the child's physical and mental well-being. Such determination shall, at a minimum, include verification of the custodian's identity and relationship to the child, if any, as well as an independent finding that the individual has not engaged in any activity that would indicate a potential risk to the child.

(B) HOME STUDIES.—Before placing the child with an individual, the Secretary of Health and Human Services shall determine whether a home study is first necessary. A home study shall be conducted for a child who is a victim of a severe form of trafficking in persons, a special needs child with a disability (as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102(2))), a child who has been a victim of physical or sexual abuse under circumstances that indicate that the child's health or welfare has been significantly harmed or threatened, or a child whose proposed sponsor clearly presents a risk of abuse, maltreatment, exploitation, or trafficking to the child based on all available objective evidence. The Secretary of Health and Human Services shall conduct follow-up services, during the pendency of removal proceedings, on children for whom a home study was conducted and is authorized to conduct follow-up services in cases involving children with mental health or other needs who could benefit from ongoing assistance from a social welfare agency.

(C) ACCESS TO INFORMATION.—Not later than 2 weeks after receiving a request from the Secretary of Health and Human Services, the Secretary of Homeland Security shall provide information necessary to conduct suitability assessments from appropriate Federal, State, and local law enforcement and immigration databases.

(4) **LEGAL ORIENTATION PRESENTATIONS.**—The Secretary of Health and Human Services shall cooperate with the Executive Office for Immigration Review to ensure that custodians receive legal orientation presentations provided through the Legal Orientation Program administered by the Executive Office for Immigration Review. At a minimum, such presentations shall address the custodian's responsibility to attempt to ensure the child's appearance at all immigration proceedings and to protect the child from mistreatment, exploitation, and trafficking.

(5) **ACCESS TO COUNSEL.**—The Secretary of Health and Human Services shall ensure, to the greatest extent practicable and consistent with section 292 of the Immigration and Nationality Act (8 U.S.C. 1362), that all unaccompanied alien children who are or have been in the custody of the Secretary or the Secretary of Homeland Security, and who are not described in subsection (a)(2)(A), have counsel to represent them in legal proceedings or matters and protect them from mistreatment, exploitation, and trafficking. To the greatest extent practicable, the Secretary of Health and Human Services shall make every effort to utilize the services of pro bono counsel who agree to provide representation to such children without charge.

(6) **CHILD ADVOCATES.**—

(A) **IN GENERAL.**—The Secretary of Health and Human Services is authorized to appoint independent child advocates for child trafficking victims and other vulnerable unaccompanied alien children. A child advocate shall be provided access to materials necessary to effectively advocate for the best interest of the child. The child advocate shall not be compelled to testify or provide evidence in any proceeding concerning any information or opinion received from the child in the course of serving as a child advocate. The child advocate shall be presumed to be acting in good faith and be immune from civil liability for lawful conduct of duties as described in this provision.

(B) **APPOINTMENT OF CHILD ADVOCATES.**—

(i) **INITIAL SITES.**—Not later than 2 years after the date of the enactment of the Violence Against Women Reauthorization Act of 2013, the Secretary of Health and Human Services shall appoint child advocates at 3 new immigration detention sites to provide independent child advocates for trafficking victims and vulnerable unaccompanied alien children.

(ii) **ADDITIONAL SITES.**—Not later than 3 years after the date of the enactment of the Violence Against Women Reauthorization Act of 2013, the Secretary shall appoint child advocates at not more than 3 additional immigration detention sites.

(iii) **SELECTION OF SITES.**—Sites at which child advocate programs will be established under this subparagraph shall be located at immigration detention sites at which more than 50 children are held in immi-

gration custody, and shall be selected sequentially, with priority given to locations with—

(I) the largest number of unaccompanied alien children; and

(II) the most vulnerable populations of unaccompanied children.

(C) RESTRICTIONS.—

(i) ADMINISTRATIVE EXPENSES.—A child advocate program may not use more than 10 percent of the Federal funds received under this section for administrative expenses.

(ii) NONEXCLUSIVITY.—Nothing in this section may be construed to restrict the ability of a child advocate program under this section to apply for or obtain funding from any other source to carry out the programs described in this section.

(iii) CONTRIBUTION OF FUNDS.—A child advocate program selected under this section shall contribute non-Federal funds, either directly or through in-kind contributions, to the costs of the child advocate program in an amount that is not less than 25 percent of the total amount of Federal funds received by the child advocate program under this section. In-kind contributions may not exceed 40 percent of the matching requirement under this clause.

(D) ANNUAL REPORT TO CONGRESS.—Not later than 1 year after the date of the enactment of the Violence Against Women Reauthorization Act of 2013, and annually thereafter, the Secretary of Health and Human Services shall submit a report describing the activities undertaken by the Secretary to authorize the appointment of independent Child Advocates for trafficking victims and vulnerable unaccompanied alien children to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives.

(E) ASSESSMENT OF CHILD ADVOCATE PROGRAM.—

(i) IN GENERAL.—As soon as practicable after the date of the enactment of the Violence Against Women Reauthorization Act of 2013, the Comptroller General of the United States shall conduct a study regarding the effectiveness of the Child Advocate Program operated by the Secretary of Health and Human Services.

(ii) MATTERS TO BE STUDIED.—In the study required under clause (i), the Comptroller General shall— collect information and analyze the following:

(I) analyze the effectiveness of existing child advocate programs in improving outcomes for trafficking victims and other vulnerable unaccompanied alien children;

(II) evaluate the implementation of child advocate programs in new sites pursuant to subparagraph (B);

(III) evaluate the extent to which eligible trafficking victims and other vulnerable unaccom-

panied children are receiving child advocate services and assess the possible budgetary implications of increased participation in the program;

(IV) evaluate the barriers to improving outcomes for trafficking victims and other vulnerable unaccompanied children; and

(V) make recommendations on statutory changes to improve the Child Advocate Program in relation to the matters analyzed under subclauses (I) through (IV).

(iii) GAO REPORT.—Not later than 3 years after the date of the enactment of this Act, the Comptroller General of the United States shall submit the results of the study required under this subparagraph to—

(I) the Committee on the Judiciary of the Senate;

(II) the Committee on Health, Education, Labor, and Pensions of the Senate;

(III) the Committee on the Judiciary of the House of Representatives; and

(IV) the Committee on Education and the Workforce of the House of Representatives.

(F) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Health and Human Services to carry out this subsection—

(i) \$1,000,000 for each of the fiscal years 2014 and 2015; and

(ii) \$2,000,000 for each of fiscal years 2018 through 2021.

(d) PERMANENT PROTECTION FOR CERTAIN AT-RISK CHILDREN.—

(1) IN GENERAL.—Section 101(a)(27)(J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(J)) is amended—

(A) in clause (i), by striking “State and who has been deemed eligible by that court for long-term foster care due to abuse, neglect, or abandonment;” and inserting “State, or an individual or entity appointed by a State or juvenile court located in the United States, and whose reunification with 1 or both of the immigrant’s parents is not viable due to abuse, neglect, abandonment, or a similar basis found under State law;”; and

(B) in clause (iii)—

(i) in the matter preceding subclause (I), by striking “the Attorney General expressly consents to the dependency order serving as a precondition to the grant of special immigrant juvenile status;” and inserting “the Secretary of Homeland Security consents to the grant of special immigrant juvenile status;”; and

(ii) in subclause (I), by striking “in the actual or constructive custody of the Attorney General unless the Attorney General specifically consents to such jurisdiction;” and inserting “in the custody of the Secretary of Health and Human Services unless the Sec-

retary of Health and Human Services specifically consents to such jurisdiction;”.

(2) EXPEDITIOUS ADJUDICATION.—All applications for special immigrant status under section 101(a)(27)(J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(J)) shall be adjudicated by the Secretary of Homeland Security not later than 180 days after the date on which the application is filed.

(3) ADJUSTMENT OF STATUS.—Section 245(h)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1255(h)(2)(A)) is amended to read as follows:

“(A) paragraphs (4), (5)(A), (6)(A), (6)(C), (6)(D), (7)(A), and (9)(B) of section 212(a) shall not apply; and”.

(4) ELIGIBILITY FOR ASSISTANCE.—

(A) IN GENERAL.—A child who has been granted special immigrant status under section 101(a)(27)(J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(J)) and who was in the custody of the Secretary of Health and Human Services at the time a dependency order was granted for such child, was receiving services pursuant to section 501(a) of the Refugee Education Assistance Act of 1980 (8 U.S.C. 1522 note) at the time such dependency order was granted, or has been granted status under section 101(a)(15)(U) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(U)),<sup>2</sup> shall be eligible for placement and services under section 412(d) of the Immigration and Nationality Act (8 U.S.C. 1522(d)) until the earlier of—

(i) the date on which the child reaches the age designated in section 412(d)(2)(B) of the Immigration and Nationality Act (8 U.S.C. 1522(d)(2)(B)); or

(ii) the date on which the child is placed in a permanent adoptive home.

(B) STATE REIMBURSEMENT.—Subject to the availability of appropriations, if State foster care funds are expended on behalf of a child who is not described in subparagraph (A) and has been granted special immigrant status under section 101(a)(27)(J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(J)), or status under section 101(a)(15)(U) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(U)),<sup>2</sup> the Federal Government shall reimburse the State in which the child resides for such expenditures by the State.

(5) STATE COURTS ACTING IN LOCO PARENTIS.—A department or agency of a State, or an individual or entity appointed by a State court or juvenile court located in the United States, acting in loco parentis, shall not be considered a legal guardian for purposes of this section or section 462 of the Homeland Security Act of 2002 (6 U.S.C. 279).

(6) TRANSITION RULE.—Notwithstanding any other provision of law, an alien described in section 101(a)(27)(J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(J)), as amended by paragraph (1), may not be denied special immigrant status under such section after the date of the enactment

<sup>2</sup>Two commas so in law. See amendment made by section 1263(1)(C) of Public Law 113–4.

of this Act based on age if the alien was a child on the date on which the alien applied for such status.

(7) ACCESS TO ASYLUM PROTECTIONS.—Section 208 of the Immigration and Nationality Act (8 U.S.C. 1158) is amended—

(A) in subsection (a)(2), by adding at the end the following:

“(E) APPLICABILITY.—Subparagraphs (A) and (B) shall not apply to an unaccompanied alien child (as defined in section 462(g) of the Homeland Security Act of 2002 (6 U.S.C. 279(g))).”; and

(B) in subsection (b)(3), by adding at the end the following:

“(C) INITIAL JURISDICTION.—An asylum officer (as defined in section 235(b)(1)(E)) shall have initial jurisdiction over any asylum application filed by an unaccompanied alien child (as defined in section 462(g) of the Homeland Security Act of 2002 (6 U.S.C. 279(g))), regardless of whether filed in accordance with this section or section 235(b).”.

(8) SPECIALIZED NEEDS OF UNACCOMPANIED ALIEN CHILDREN.—Applications for asylum and other forms of relief from removal in which an unaccompanied alien child is the principal applicant shall be governed by regulations which take into account the specialized needs of unaccompanied alien children and which address both procedural and substantive aspects of handling unaccompanied alien children’s cases.

(e) TRAINING.—The Secretary of State, the Secretary of Homeland Security, the Secretary of Health and Human Services, and the Attorney General shall provide specialized training to all Federal personnel, and upon request, state and local personnel, who have substantive contact with unaccompanied alien children. Such personnel shall be trained to work with unaccompanied alien children, including identifying children who are victims of severe forms of trafficking in persons, and children for whom asylum or special immigrant relief may be appropriate, including children described in subsection (a)(2).

(f) AMENDMENTS TO THE HOMELAND SECURITY ACT OF 2002.—

(1) ADDITIONAL RESPONSIBILITIES.—Section 462(b)(1)(L) of the Homeland Security Act of 2002 (6 U.S.C. 279(b)(1)(L)) is amended by striking the period at the end and inserting “, including regular follow-up visits to such facilities, placements, and other entities, to assess the continued suitability of such placements.”.

(2) TECHNICAL CORRECTIONS.—Section 462(b) of such Act (6 U.S.C. 279(b)) is further amended—

(A) in paragraph (3), by striking “paragraph (1)(G),” and inserting “paragraph (1),”; and

(B) by adding at the end the following:

“(4) RULE OF CONSTRUCTION.—Nothing in paragraph (2)(B) may be construed to require that a bond be posted for an unaccompanied alien child who is released to a qualified sponsor.”.

(g) DEFINITION OF UNACCOMPANIED ALIEN CHILD.—For purposes of this section, the term “unaccompanied alien child” has the

meaning given such term in section 462(g) of the Homeland Security Act of 2002 (6 U.S.C. 279(g)).

(h) **EFFECTIVE DATE.**—This section—

(1) shall take effect on the date that is 90 days after the date of the enactment of this Act; and

(2) shall also apply to all aliens in the United States in pending proceedings before the Department of Homeland Security or the Executive Office for Immigration Review, or related administrative or Federal appeals, on the date of the enactment of this Act.

(i) **GRANTS AND CONTRACTS.**—The Secretary of Health and Human Services may award grants to, and enter into contracts with, voluntary agencies to carry out this section and section 462 of the Homeland Security Act of 2002 (6 U.S.C. 279).

\* \* \* \* \*

**SEC. 240. [22 U.S.C. 212b] UNIQUE PASSPORT IDENTIFIERS FOR COVERED SEX OFFENDERS.**

(a) **IN GENERAL.**—Immediately after receiving a written determination from the Angel Watch Center that an individual is a covered sex offender, through the process developed for that purpose under section 9 of the International Megan’s Law to Prevent Child Exploitation and Other Sexual Crimes Through Advanced Notification of Traveling Sex Offenders, the Secretary of State shall take appropriate action under subsection (b).

(b) **AUTHORITY TO USE UNIQUE PASSPORT IDENTIFIERS.**—

(1) **IN GENERAL.**—Except as provided under paragraph (2), the Secretary of State shall not issue a passport to a covered sex offender unless the passport contains a unique identifier, and may revoke a passport previously issued without such an identifier of a covered sex offender.

(2) **AUTHORITY TO REISSUE.**—Notwithstanding paragraph (1), the Secretary of State may reissue a passport that does not include a unique identifier if an individual described in subsection (a) reapplies for a passport and the Angel Watch Center provides a written determination, through the process developed for that purpose under section 9 of the International Megan’s Law to Prevent Child Exploitation and Other Sexual Crimes Through Advanced Notification of Traveling Sex Offenders, to the Secretary of State that the individual is no longer required to register as a covered sex offender.

(3) **CLARIFICATION WITH RESPECT TO CONTINUING REGISTRATION.**—An individual may not be issued or reissued a passport without a unique identifier solely because the individual has moved or otherwise resides outside the United States.

(c) **DEFINED TERMS.**—In this section—

(1) the term “covered sex offender” means an individual who—

(A) is a sex offender, as defined in section 4(f) of the International Megan’s Law to Prevent Child Exploitation and Other Sexual Crimes Through Advanced Notification of Traveling Sex Offenders; and

(B) is currently required to register under the sex offender registration program of any jurisdiction;

(2) the term “unique identifier” means any visual designation affixed to a conspicuous location on the passport indicating that the individual is a covered sex offender; and

(3) the term “passport” means a passport book or passport card.

(d) PROHIBITION.—The Secretary of State, the Secretary of Homeland Security, and the Attorney General, and their agencies, officers, employees, and agents, shall not be liable to any person for any action taken under this section.

(e) DISCLOSURE.—In furtherance of this section, the Secretary of State may require a passport applicant to disclose that they are a registered sex offender.

(f) EFFECTIVE DATE.—This section shall take effect upon certification by the Secretary of State, the Secretary of Homeland Security, and the Attorney General, that the process developed and reported to the appropriate congressional committees under section 9 of the International Megan’s Law to Prevent Child Exploitation and Other Sexual Crimes Through Advanced Notification of Traveling Sex Offenders has been successfully implemented.

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## TITLE IV—CHILD SOLDIERS

### SEC. 401. [22 U.S.C. 2151 note] SHORT TITLE.

This title may be cited as the “Child Soldiers Prevention Act of 2008”.

### SEC. 402. [22 U.S.C. 2370c] DEFINITIONS.

In this title:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means—

(A) the Committee on Foreign Relations of the Senate;

(B) the Committee on Appropriations of the Senate;

(C) the Committee on Foreign Affairs of the House of Representatives; and

(D) the Committee on Appropriations of the House of Representatives.

(2) CHILD SOLDIER.—Consistent with the provisions of the Optional Protocol to the Convention of the Rights of the Child, the term “child soldier”—

(A) means—

(i) any person under 18 years of age who takes a direct part in hostilities as a member of governmental armed forces, police, or other security forces;

(ii) any person under 18 years of age who has been compulsorily recruited into governmental armed forces, police, or other security forces;

(iii) any person under 15 years of age who has been voluntarily recruited into governmental armed forces, police, or other security forces; or

(iv) any person under 18 years of age who has been recruited or used in hostilities by armed forces distinct from the armed forces of a state; and



(B) includes any person described in clause (ii), (iii), or (iv) of subparagraph (A) who is serving in any capacity, including in a support role such as a cook, porter, messenger, medic, guard, or sex slave.

**SEC. 403. SENSE OF CONGRESS.**

It is the sense of Congress that—

(1) the United States Government should condemn the conscription, forced recruitment, or use of children by governments, paramilitaries, or other organizations;

(2) the United States Government should support and, to the extent practicable, lead efforts to establish and uphold international standards designed to end the abuse of human rights described in paragraph (1);

(3) the United States Government should expand ongoing services to rehabilitate recovered child soldiers and to reintegrate such children back into their respective communities by—

(A) offering ongoing psychological services to help such children—

(i) to recover from the trauma suffered during their forced military involvement;

(ii) to relearn how to interact with others in non-violent ways so that such children are no longer a danger to their respective communities; and

(iii) by taking into consideration the needs of girl soldiers, who may be at risk of exclusion from disarmament, demobilization, and reintegration programs;

(B) facilitating reconciliation with such communities through negotiations with traditional leaders and elders to enable recovered abductees to resume normal lives in such communities; and

(C) providing educational and vocational assistance;

(4) the United States should work with the international community, including, as appropriate, third country governments, nongovernmental organizations, faith-based organizations, United Nations agencies, local governments, labor unions, and private enterprises—

(A) to bring to justice rebel and paramilitary forces that kidnap children for use as child soldiers;

(B) to recover those children who have been abducted; and

(C) to assist such children to be rehabilitated and reintegrated into their respective communities;

(5) the Secretary of State, the Secretary of Labor, and the Secretary of Defense should coordinate programs to achieve the goals described in paragraph (3);

(6) United States diplomatic missions in countries in which the use of child soldiers is an issue, whether or not such use is supported or sanctioned by the governments of such countries, should include in their mission program plans a strategy to achieve the goals described in paragraph (3);

(7) United States diplomatic missions in countries in which governments use or tolerate child soldiers should develop strategies, as part of annual program planning—

(A) to promote efforts to end such abuse of human rights; and

(B) to identify and integrate global best practices, as available, into such strategies to avoid duplication of effort; and

(8) in allocating or recommending the allocation of funds or recommending candidates for programs and grants funded by the United States Government, United States diplomatic missions should give serious consideration to those programs and candidates that are expected to promote the end to the abuse of human rights described in this section.

**SEC. 404. [22 U.S.C. 2370c-1] PROHIBITION.**

(a) IN GENERAL.—Subject to subsections (b) through (f), the authorities contained in sections 516, 541, and 551 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j, 2347, and 2348) or section 23 of the Arms Export Control Act (22 U.S.C. 2763) may not be used to provide assistance to, and no licenses for direct commercial sales of military equipment may be issued to, the government of a country that is clearly identified, pursuant to subsection (b), for the most recent year preceding the fiscal year in which the authorities or license would have been used or issued in the absence of a violation of this title, as having governmental armed forces, police, or other security forces, or government-supported armed groups, including paramilitaries, militias, or civil defense forces, that recruit or use child soldiers.

(b) IDENTIFICATION AND NOTIFICATION TO COUNTRIES IN VIOLATION OF STANDARDS.—

(1) PUBLICATION OF LIST OF FOREIGN GOVERNMENTS.—The Secretary of State shall include a list of the foreign governments that have violated the standards under this title and are subject to the prohibition in subsection (a) in the report required under section 110(b) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7107(b)).

(2) NOTIFICATION.—

(A) IN GENERAL.—Not later than 45 days after the date on which each report is submitted under section 110(b) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7107(b)), the Secretary of State shall formally notify each government included in the list under paragraph (1) that such government is included in such list.

(B) CONGRESSIONAL NOTIFICATION.—As soon as practicable after making all of the notifications required under subparagraph (A) with respect to a report, the Secretary of State shall notify the appropriate congressional committees that the requirements of subparagraph (A) have been met.

(c) NATIONAL INTEREST WAIVER.—

(1) WAIVER.—The President may waive the application to a country of the prohibition in subsection (a) if the President determines that such waiver is in the national interest of the

United States and certifies to the appropriate congressional committees that the government of such country is taking effective and continuing steps to address the problem of child soldiers.

(2) PUBLICATION AND NOTIFICATION.—Not later than 45 days after each waiver is granted under paragraph (1), the President shall notify the appropriate congressional committees of the waiver and the justification for granting such waiver.

(d) REINSTATEMENT OF ASSISTANCE.—The President may provide to a country assistance otherwise prohibited under subsection (a) upon certifying to the appropriate congressional committees that the government of such country—

(1) has implemented measures that include an action plan and actual steps to come into compliance with the standards outlined in section 404(b); and

(2) has implemented policies and mechanisms to prohibit and prevent future government or government-supported use of child soldiers and to ensure that no children are recruited, conscripted, or otherwise compelled to serve as child soldiers.

(e) EXCEPTION FOR PROGRAMS DIRECTLY RELATED TO ADDRESSING THE PROBLEM OF CHILD SOLDIERS OR PROFESSIONALIZATION OF THE MILITARY.—

(1) IN GENERAL.—The President may provide assistance under section 541 of the Foreign Assistance Act of 1961 (22 U.S.C. 2347) through the Defense Institute for International Legal Studies or the Center for Civil-Military Relations at the Naval Post-Graduate School, and may provide nonlethal supplies (as defined in section 2557(d)(1)(B) of title 10, United States Code), to a country subject to the prohibition under subsection (a) upon certifying to the appropriate congressional committees that—

(A) the government of such country is taking reasonable steps to implement effective measures to demobilize child soldiers in its forces or in government-supported paramilitaries and is taking reasonable steps within the context of its national resources to provide demobilization, rehabilitation, and reintegration assistance to those former child soldiers; and

(B) the assistance provided by the United States Government to the government of such country will go to programs that will directly support professionalization of the military.

(2) LIMITATION.—The exception under paragraph (1) may not remain in effect for a country for more than 5 years.

(f) EXCEPTION FOR PEACEKEEPING OPERATIONS.—The limitation set forth in subsection (a) that relates to section 551 of the Foreign Assistance Act of 1961 shall not apply to programs that support military professionalization, security sector reform, heightened respect for human rights, peacekeeping preparation, or the demobilization and reintegration of child soldiers.

**SEC. 405. [22 U.S.C. 2370c-2] REPORTS.**

(a) INVESTIGATION OF ALLEGATIONS REGARDING CHILD SOLDIERS.—United States missions abroad shall thoroughly investigate reports of the use of child soldiers.

(b) INFORMATION FOR ANNUAL HUMAN RIGHTS REPORTS.—In preparing those portions of the annual Human Rights Report that relate to child soldiers under sections 116 and 502B of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n(f) and 2304(h)), the Secretary of State shall ensure that such reports include a description of the use of child soldiers in each foreign country, including—

(1) trends toward improvement in such country of the status of child soldiers or the continued or increased tolerance of such practices; and

(2) the role of the government of such country in engaging in or tolerating the use of child soldiers.

(c) ANNUAL REPORT TO CONGRESS.—If a country is notified pursuant to section 404(b)(2), or a waiver is granted pursuant to section 404(c)(1), the President shall submit a report to the appropriate congressional committees not later than June 15 of the following year. The report shall include—

(1) a list of the countries receiving notification that they are in violation of the standards under this title;

(2) a description and the amount of any assistance withheld under this title pursuant to the application to those countries of the prohibition in section 404(a);

(3) a list of any waivers or exceptions exercised under this title;

(4) justification for any such waivers and exceptions; and

(5) a description and the amount of any assistance provided under this title pursuant to the issuance of such waiver.

(d) INFORMATION TO BE INCLUDED IN ANNUAL TRAFFICKING IN PERSONS REPORT.—If the Secretary of State notifies a country pursuant to section 404(b)(2), or the President grants a waiver pursuant to section 404(c)(1), the Secretary of State shall include, in each report required under section 110(b) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7107(b)), the information required to be included in the annual report to Congress under paragraphs (1) through (5) of subsection (c).

**SEC. 406. [22 U.S.C. 4028] TRAINING FOR FOREIGN SERVICE OFFICERS.**

Section 406 contains an amendment to section 708 of the Foreign Service Act of 1980 (22 U.S.C. 4028).

**SEC. 407. [22 U.S.C. 2370c note] EFFECTIVE DATE; APPLICABILITY.**

This title, and the amendments made by this title, shall take effect 180 days after the date of the enactment of this Act.